

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>DAVID BALLARD,</b>	:	<b>CIVIL ACTION NO. 1:04-CV-0720</b>
	:	
<b>Plaintiff</b>	:	<b>(Judge Conner)</b>
	:	
v.	:	
	:	
<b>DAVID IMMEL, et al.,</b>	:	
	:	
<b>Defendants</b>	:	

**ORDER**

AND NOW, this 28th day of February, 2006, upon consideration of the report of the magistrate judge (Doc. 77), to which no objections were filed, recommending that the motion for summary judgment (Doc. 66) be denied, and, following an independent review of the record, the court finding that the applicable two-year statute of limitations for claims under 42 U.S.C. § 1983 had not expired before plaintiff filed the instant action, see Foster v. Morris, No. Civ. 3:CV-02-0766, 2005 WL 2334954, at \*3 (M.D. Pa. Sept. 22, 2005) (“[T]he United States Supreme Court established that a prisoner’s complaint is deemed filed at the time it was given to prison officials for mailing to the Court.” (citing Houston v. Lack, 487 U.S. 266 (1988))), it is hereby ORDERED that:

1. The report and recommendation of the magistrate judge (Doc. 77) is ADOPTED.
2. Defendants’ motion for summary judgment (Doc. 66) is DENIED.
3. A pretrial/trial schedule will issue by future order of court.

/s/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge